

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAWN BROWN,)	
As Administrator of the)	
Estate of Mathew Orsini, deceased,)	
Plaintiff,)	
)	
v.)	Case No. 1:20-cv-251
)	
ERIE COUNTY, et al,)	
)	
Defendants.)	

MEMORANDUM ORDER

This action was received by the Clerk of Court on August 27, 2020 and was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff Dawn Brown is the Administrator of the Estate of Mathew Orsini and brings suit based on the death of Orsini while in the custody of Erie County Prison. At the time of his death, Mr. Orsini was a pretrial detainee. *See* ECF No. 47. The complaint lays out multiple claims against multiple Defendants. However, the sole basis for federal jurisdiction is Count I of the Amended Complaint which alleges that Erie County's policies and practices resulted in the violation of Mr. Orsini's constitutional rights.

Defendant Erie County filed a motion to dismiss. ECF No. 36. The motion was fully briefed by the parties and Magistrate Judge Lanzillo heard argument on the motion on May 14, 2021. *See* ECF Nos. 36-37; 41-42; 45-46.

On May 18, 2021, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the motion to dismiss filed by Erie County be granted. Judge Lanzillo further recommended that Ms. Brown be permitted leave to file a second amended complaint. ECF No. 48. No Objections to the Report and Recommendation have been filed.


After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 2nd day of June 2021;

IT IS ORDERED that the motion to dismiss filed by Erie County [ECF No. 36] be granted.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on May 18, 2021 [ECF No. 48] is adopted as the opinion of the court.

AND, IT IS FURTHER ORDERED that Ms. Brown may file a second amended complaint, consistent with the Report and Recommendation, within twenty days of this order. Failure to file a second amended complaint may result in the dismissal of this action for lack of jurisdiction.


SUSAN PARADISE BAXTER
United States District Judge